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Tuarascáil maidir leis an ngrinnscrúdú réamhrechtach ar Scéim
Ghinearálta an Bhille Leasa Shóisialaigh (Cothabháil Linbh agus
Forálacha maidir le Gaolta faoi Dhliteanas)

Deireadh Fómhair 2023

**Joint Committee on Social Protection,
Community and Rural Development and the Islands**

Report on the pre-legislative scrutiny of the General Scheme of the Social
Welfare (Child Maintenance and Liable Relatives Provisions) Bill

October 2023

Committee Membership



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Fine Gael



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Fianna Fáil



Joe Carey T.D.
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Joan Collins T.D.
Independents 4 Change



Paul Donnelly T.D.
Sinn Féin



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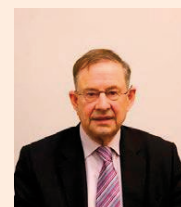
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Cathaoirleach's Foreword



The Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill 2023 is an important piece of legislation which will seek to amend the Social Welfare (Consolidation) Act 2005 (as amended). The proposed Bill aims to exclude child maintenance payments from social welfare means tests. It also seeks to ensure that lone parents will no longer need to make efforts to seek maintenance to access social welfare payments - this has delayed receipt of social assistance support and caused hardship for many families in the past.

This legislation would introduce a new definition of “maintenance payments” to ensure that child maintenance payments would no longer be assessed as means for the purposes of any social welfare means test. As a result, some lone parents in receipt of payments from the Department of Social Protection would receive a higher rate of payment, and some additional lone parents would qualify for payment. It should be reiterated that There is no change to a parent’s obligation under family law as result of this amendment.

The Committee supports the implementation of the recommendations of the report of the child maintenance review group regarding the social welfare system and welcomes the intent to give effect to these changes through this proposed legislation.

In its pre-legislative scrutiny of this Bill, the Committee held a meeting with Officials from the Department of Social Protection and invited submissions from interested groups and individuals. I would like to thank the Officials for their valuable engagement with the Committee, the organisations who made written submissions, and Members for their hard work. I would also like to acknowledge the assistance of the Committee Secretariat in preparing this report.

A handwritten signature in black ink that reads "Denis Naughten". The signature is written in a cursive style and is positioned above a horizontal line.

Denis Naughten T.D.

Cathaoirleach to the Committee

October 2023

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Introduction

The Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill amends the Social Welfare (Consolidation) Act 2005 (as amended) to provide for the discontinuation of the liable relative provisions, and the exclusion of child maintenance payments from assessment in social welfare means tests.

In January 2020, the Government established a Child Maintenance Review Group to examine several issues regarding child maintenance in Ireland. The Report of the Group was published in November 2022, and the Government accepted its recommendations in relation to the social welfare system, which are as follows:

1. Child maintenance payments to be excluded from social welfare means tests,
2. The requirement for lone parents to make efforts to seek maintenance as an eligibility condition for social welfare payments to be removed, and
3. The Liable Relatives provisions to be discontinued.

The general scheme of the Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill sets out the legislative amendments which are required to implement recommendations 1 and 3.

The general scheme of the Bill aims to exclude child maintenance payments from social welfare means tests. It also seeks to ensure that lone parents will no longer need to make efforts to seek maintenance to access social welfare payments.

The Committee supports the implementation of the recommendations of the Report of the Child Maintenance Review Group in relation to the social welfare system and welcomes these changes through this proposed legislation.

Date	Witnesses
20 September	<i>Officials from the Department of Social Protection</i> <ul style="list-style-type: none">• Mr. Rónán Hession, Assistant Secretary General, with responsibility for Working Age Income Supports.• Ms. Dearbháil Nic Giolla Mhicíl. Principal Officer.

- Ms. Marina Louarn, Assistant Principal

Recommendations

1. The Committee recommends that a Statutory Child Maintenance Agency be set up as a first step before progression to family courts.
2. The Committee recommends that measures be put in place to ensure custodial parents do not lose out financially when the liable relatives unit is dissolved.
3. The Committee recommends that a system of separating child maintenance from other maintenance payments be facilitated within the regulations of this legislation.
4. The Committee recommends that any thresholds set out by the Department should be index linked
5. The Committee recommends the exclusion of indirect payments made towards housing from any assessment of means
6. The Committee recommends that going forward the payments be backdated to the enactment of this legislation rather than the commencement of the law.

Key Issues

Key Issue 1 – Absence of a Statutory Maintenance Agency

The Department of Social Protection (the Department) informed the Committee in public session¹ that there was no consensus reached in relation to the establishment of a child maintenance agency. This matter falls under the remit of the Department of Justice.

The National One Parent Family Alliance (NOPFA) has expressed deep disappointment in its submission to the Committee,² stating that the Government has chosen not to establish a statutory maintenance agency or appropriate system, despite the majority vote of an independent committee in favour of its creation. NOPFS believes that such an agency could play a vital role in ensuring consistent and fair child maintenance payments, reduce the burden on lone parents, particularly women, and ensure the financial well-being of children. These sentiments are echoed by the Committee, which wants to ensure that there is nothing within this Bill that would help to absolve people of their financial responsibilities as a parent.

The Committee echoes the sentiments of NOPFA and agree that a dedicated child maintenance agency is the best approach to this set of circumstances. While the courts should always exist as an option for highly contested cases, the approach that is being recommended and that the Government is arriving at will create situations in which what could have been amicable, ends up being relatively contested because it is brought into the legal sphere. The Committee feels that there is scope for an agency to facilitate co-operative relationships, as the option is always there to progress to the family courts.

The Department informed the Committee that the Department of Justice is doing a review of enforcement and looking at the mechanisms in respect of that, which is close to finalisation. The Department officials informed the Committee that in their experience over the years, it was not a very effective way of getting the money

¹ Meeting Transcript available [here](#)

² National One Parent Family Alliance Submissions – available [here](#) – page 4

flowing from one parent to the other; and was instead just an extra step. It did not serve its intended purpose to lead to increased maintenance payments.

Recommendations

1. The Committee recommends that a Statutory Child Maintenance Agency be set up as a first step before progression to family courts.

Key Issue 2 – Potential Consequences of Abolishing the Liable Relatives Unit

The Committee feels that the dissolution of the liable relative unit has the effect of removing only the State enforcement arm for maintenance. There is no information given on how a system solely based in the courts would work or how it would deal with the major influx into the courts.

When a lone parent's youngest child turns seven, non-resident parents receive a letter saying they need to switch payment of maintenance from the Department to the other parent.

When this happens, two issues occur:

- There is a 60% drop in maintenance payments after this letter due to non-payment, and
- There is a 50% drop in the overall amount of maintenance paid after the youngest turns seven.

For every €100 paid presently, €50 is now recouped by the Department. The Committee relayed to the Department its concerns that when the liable relatives unit is dissolved and every non-resident parent receives a letter stating the removal of the State enforcement of maintenance, we could see that 50% repeated across every lone parent family.

These concerns are also reflected in a submission received by the Committee from the National One Parent Family Alliance³ (NOPFA). NOPFA states that without a statutory maintenance agency, the eradication of the Liable Relatives Unit may lead to unintended consequences. In particular, it may result in a loss of child maintenance for parents receiving the One Parent Family Allowance and an increase in lone parents seeking child maintenance through the family courts.

The move from the One Parent Family Allowance to Jobseeker's Transitional Payment requires the Department to communicate with liable relatives to inform them. This causes some liable relatives to cease making maintenance payments. This situation can create difficulties for children and parents and strain relationships.

In its submission⁴, NOPFA emphasises the importance of clear, effective communication with liable relatives when changes in circumstances occur. Any communication to liable relatives should firmly advise them of their legal responsibility to continue paying child maintenance regardless of Department of Social Protection rules. Furthermore, they should be made aware that returning to court could result in additional costs and potentially higher court-ordered maintenance payments. Such communication can help minimise disruption and financial hardship for lone parent families.

NOPFA⁵ also raised concerns about the withdrawal of State support for the enforcement of maintenance orders. This decision means that, instead of enhancing the enforcement of maintenance payments, the State is stepping back, leaving the responsibility solely to the overburdened family law courts. This could result in delays and increased stress for lone parents trying to secure financial support for their children.

Recommendations

³ National One Parent Family Alliance Submission – Available [here](#) – Page 4

⁴ National One Parent Family Alliance Submission – Available [here](#) – Page 4

⁵ National One Parent Family Alliance Submission – Available [here](#) – Page 4

2. The Committee recommends that measures be put in place to ensure custodial parents do not lose out financially when the liable relatives unit is dissolved.

Key Issue 3 – Assessment of Maintenance Payments

Lone parents are among the most disadvantaged group in society and are especially vulnerable to poverty compared to the general population.⁶ The Committee feels that €220 payment plus the child dependant allowance constitutes subsistence. The Committee believes that means tests can be crippling and that this does not only affect adults, but also children and future generations. When it comes to intergenerational disadvantage, the Committee feels that children who come from less well-off backgrounds start at a disadvantage from day one, and as such, two generations are being affected in one go. This is something that needs to be improved.

The Committee feels that going forward the more important part is the assessment of means for maintenance payments. The Committee welcomes the idea that child dependant money will not be assessed but some very comprehensive way is needed of making sure this differentiation between what goes to the parent and what goes to the child is made. The Committee feels that the more people parenting alone are facilitated in getting above the poverty threshold, the more we are investing in their children and their future, and the more we are alleviating poverty in two generations.

While a means test does apply to the One Parent Family and Jobseeker's Transitional Payments it should be noted that a person can earn €165 per week without having any earnings assessed which means they can retain the full personal rate of payment. Where a person has earnings of over €165 per week, 50% of the balance (over €165) is assessed as means.

⁶ See facts and figures provided by One Family, available [here](#).

The Committee also discussed the housing disregard of €95.23 and are of the opinion that this amount is derisory, compared with what was initially intended and the difference between the average cost of mortgages or rents when the €95.23 was decided and comparing it with today's cost of housing. Some people have been lone parents since the birth of their children. Some of them have taken on family commitments, mortgages and so on after there has been a marriage breakdown. The Committee feel that for someone with a mortgage of a few hundred thousand euro, €95.23 per week is a small amount to be taken off.

The Department informed the Committee in a supplementary briefing provided, that when the housing disregard was introduced originally, it was £75 which converted to €95.23. When this amount is adjusted for inflation from 1999, it translates to €165 today. When compared to the current average rental and housing costs, the level of the housing disregard is very low.

Furthermore, as the Department of Social Protection assesses mortgage payments as means and treats it as if it were maintenance, this can mean a parent could have a low entitlement or no entitlement for support for day-to-day living costs. Deductions of mortgage payments place the family at grave risk of poverty and deprivation, and ultimately maintaining the family home becomes unsustainable. In such circumstances, the resident parent may feel it's better to sacrifice mortgage payments so they have an income.

The Committee feels this significantly increases the chances of lone parents facing homelessness, even with consideration made to the 50% disregard and the housing disregard. Lone parent families are already at a greater risk of homelessness and are significantly over-represented in emergency accommodation. If mortgage payments paid by a former partner were not assessed as means, it could keep families in the family home. The Committee feels that indirect payments made towards housing costs should be excluded from the assessment of means and this will make significant progress in stopping homelessness for lone parent families.

The Department noted that the housing disregard is not intended to cover housing costs. It is applied to income from maintenance payments only and it is intended to provide a buffer where people have housing costs.

In a briefing provided to the Committee by the Department following the public meeting, the Department informed the Committee that where people have child maintenance, only the full amount will be disregarded in the means test once the legislation is changed, and therefore, the housing disregard will not be applicable.

The Committee believe that this legislation should be enacted on January 1, 2024, and if it is not enacted on this date, there should be legislative provisions within the Bill for it to be retrospectively applied from the first of January.

Recommendations

3. The Committee recommends that a system of separating child maintenance from other maintenance payments be facilitated within the regulations of this legislation.
4. The Committee recommends that any thresholds set out by the Department should be index linked.
5. The Committee recommends the exclusion of indirect payments made towards housing from any assessment of means.

Key Issue 4 – Late Claims

The Committee queried whether the Department envision any public awareness campaign to make people aware of their entitlements to apply for claims for which they previously did not qualify, or in respect of which they may be qualified for only a portion. The Committee also raised concerns regarding late claims from people claiming these entitlements. The Department were asked whether a new claim made on the foot of this legislation would be backdated to the point of the enactment.

The Department informed the Committee that there is a requirement under the legislation that persons must claim their entitlements within a specific period from the date their entitlement arises, which is referred to as the 'prescribed time'. In the case of the One-Parent Family Payment, the prescribed time is within 3 months from the

first date of entitlement and where a person is eligible payment is made from the date of claim.

The Department informed the Committee in a supplementary briefing provided that if new arrangements come into force on 1 January 2024, and there is a late claim, the Deciding Officer or Designated Person should consider the reason for the delay in making an application. All late notice applications are considered on an individual basis.

Recommendations

6. The Committee recommends that going forward the payments be backdated to the enactment of this legislation rather than the commencement of the law.

Conclusion

While this legislation is welcome, the Committee also supports the removal of overly prescriptive means testing in other areas of social protection policy, some of which are echoed in a submission received from Focus Ireland.⁷

The Joint Committee on Social Protection, Community and Rural Development and the Islands recognises and welcomes certain provisions within the General Scheme of the Social Welfare (Child Maintenance and Liable Relatives Provisions) Bill, particularly those aimed at excluding child maintenance from means assessment and no longer requiring people to seek child maintenance. Nevertheless, the Committee has lingering concerns regarding the absence of a statutory maintenance agency and the potential consequences of abolishing the Liable Relatives Unit. These changes will decouple child maintenance from social welfare and will provide material benefits for the lone parents affected. Disregarding child maintenance payments in the means test for social welfare payments is expected to benefit approximately 16,000 lone parents at an estimated cost of €10 million.

⁷ Focus Ireland Submission – Available [here](#).

The Committee welcomed the opportunity to scrutinise the general scheme and put forward its recommendations to the Department of Social Protection. The Committee endorses this piece of legislation and hopes that the Minister for Social Protection reports back to the Committee on the implementation of the recommendations contained within this report.

APPENDIX 1 – Orders of Reference

Scope and Context of Activities of Committees (DSO 84 and SSO 70)

DSO 94

- 1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;
- 2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil/and or Seanad;
- 3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993;
- 4) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 111A; and

The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

- (i) a member of the Government or a Minister of State, or
- (ii) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

- 5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

Functions of Departmental Committees (DSO 84A and SSO 70A)

- 1) The Select Committee shall consider and report to the Dáil on-
 - a. such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - b. European Union matters within the remit of the relevant Department or Departments.
- 2) The Select Committee may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- 3) Without prejudice to the generality of paragraph (1), the Select Committee shall consider, in respect of the relevant Department or Departments, such
 - a. Bills,
 - b. proposals contained in any motion, including any motion within the meaning of Standing Order 187,
 - c. Estimates for Public Services, and
 - d. other mattersas shall be referred to the Select Committee by the Dáil, and
 - e. Annual Output Statements including performance, efficiency and effectiveness in the use of public moneys, and
 - f. such Value for Money and Policy Reviews as the Select Committee may select.

- 4) Without prejudice to the generality of paragraph (1), the Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
- a. matters of policy and governance for which the Minister is officially responsible,
 - b. public affairs administered by the Department,
 - c. policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - d. Government policy and governance in respect of bodies under the aegis of the Department,
 - e. policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - f. the general scheme or draft heads of any Bill
 - g. any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - h. statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - i. strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - j. annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
 - k. such other matters as may be referred to it by the Dáil from time to time.
- 5) Without prejudice to the generality of paragraph (1), the Joint Committee shall consider, in respect of the relevant Department or Departments—

- a. EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
 - b. other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - c. non-legislative documents published by any EU institution in relation to EU policy matters, and
 - d. matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- 6) Where the Select Committee has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- 7) The following may attend meetings of the Select or Joint Committee, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- a. members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - b. members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - c. at the invitation of the Committee, other members of the European Parliament.
- 8) The Joint Committee may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- a. such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
 - b. such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 111F apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess

periods) of the report being laid before either or both Houses of the Oireachtas.

APPENDIX 2 – Links to Submissions and Opening Statements

Submissions

Name of organisation		
1	National One Parent Family Alliance	Available here
2	Focus Ireland	Available here

Members of the National One Parent Family Alliance:

- Barnardos
- Children’s Rights Alliance
- Family Resource Centre – National Forum
- Free Legal Advice Centres (FLAC)
- Focus Ireland
- National Women’s Council
- One Family
- Society of St Vincent de Paul
- Single Parents Acting for the Rights of our Kids (SPARK)
- Treoir

Opening Statement

Name of organisation		
1	Rónán Hession, Assistant Secretary General Department of Social Protection	Available here

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